

CITY OF ALAMEDA

Memorandum

To: Honorable Mayor and
Members of the City Council

From: John A. Russo
City Manager

Date: December 6, 2011

Re: Adopt a Resolution of Intention to Approve an Amendment to the Contract Between the Board of Administration of the California Public Employees' Retirement System and the City Council of the City of Alameda to Include Provisions Pursuant to Government Code 20516 "Cost Sharing" for Local Police Members and for Local Fire Members

BACKGROUND

At the City Council meeting on July 19, 2011, the City Council adopted Resolutions No. 14610 and 14611 approving the revised Memorandum of Understanding (MOU) between the Alameda Police Officers Association (APOA) and the City of Alameda, for the period of January 3, 2010, through June 29, 2013, and the revised Memorandum of Understanding between the Alameda Police Managers Association (APMA) and the City of Alameda, for the period of February 28, 2010 through June 29, 2013.

At the City Council meeting on June 21, 2011, the City Council adopted Resolution No. 14575 approving the revised Memorandum of Understanding between the International Association of Firefighters, Local 689 (IAFF) and the City of Alameda, for the period of January 3, 2010, through June 29, 2013, and at the City Council meeting on September 20, 2011, the City Council adopted Resolution No. 14618 approving the revised Memorandum of Understanding between the Alameda Fire Management Association (AFMA) and the City of Alameda, for the period of February 28, 2010 through June 29, 2013.

The Retirement Plan section for each of these MOUs establishes that the City shall contract with CalPERS for Variable Rate Cost Sharing of up to the permanent cost share of 5.057% under Government Code Section 20516(a), based on the City's contract with CalPERS for the 3% @ 50 and One-Year Final Compensation optional benefits for local fire and local police employees. The permanent cost share is the increased cost for CalPERS contract amendments that provide optional benefits to employees. CalPERS, through an actuarial valuation, has determined the cost to the City of providing the 3% @ 50 and the One-Year Final Compensation optional benefits to be 5.057% amortized over 30 years. Therefore, employees can share anywhere from zero percent to the permanently established maximum of 5.057%. The amount of the cost sharing has been established at 2% for the duration of the four safety MOUs,

thus increasing the current 9% employee contribution to an 11% contribution. This 11% contribution shall be in accordance with Section 414(h)(2) of the Internal Revenue Code whereby employee contributions shall be tax deferred and not subject to taxation until the time of constructive receipt.

On September 21, 2011, City staff submitted to CalPERS a request for a contract amendment for local police and local fire employees. On October 24, 2011, CalPERS issued the amendment documents and instructions.

DISCUSSION

This CalPERS contract amendment was a key provision of the negotiated agreements between the City and the four sworn safety associations. Since the MOUs establish that the provision is only in place through June 29, 2013, prompt action is necessary in order for the City to achieve optimum financial advantage.

CalPERS requires that clearly defined procedures be followed for contract amendments. The following steps are being taken in order to complete the contract amendment process:

- The City Council must adopt a Resolution of Intention.
- Government Code Section 20474 requires a secret ballot election by the employees affected whenever the contract is amended to change the employees' rate of contribution. This election must be held for each contract group following the adoption of the Resolution of Intention, and prior to the adoption of the Ordinance to amend the CalPERS contract. The election is scheduled to be conducted between December 9, and December 21, 2011.
- The Ordinance, which will be an Urgency Ordinance, and a City Council vote on adoption, must occur at least 20 days after the adoption of the Resolution of Intention. This Urgency Ordinance will be presented to the City Council for adoption on January 3, 2012.
- The effective date of the contract amendment must be the first day of a payroll period and may not be earlier than the day following adoption of the Ordinance. The effective date is scheduled January 15, 2012.

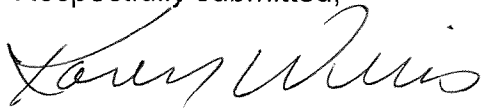
FINANCIAL IMPACT

There is an estimated cost savings to the General Fund over the remaining life of the four safety contracts of \$285,900 for APOA, \$43,500 for APMA, \$282,500 for IAFF, and \$26,300 for AFMA, totaling \$638,200.

RECOMMENDATION

Adopt a Resolution of Intention to approve an amendment to the contract between the Board of Administration of the California Public Employees' Retirement System and the City Council of the City of Alameda to include provisions pursuant to Government Code 20516 "Cost Sharing" for local police members and for local fire members.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Karen Willis", written in a cursive style.

Karen Willis
Human Resources Director

Approved as to funds and account,

A handwritten signature in black ink, appearing to read "Fred Marsh", written in a cursive style.

Fred Marsh
Controller

Approved as to Form
CITY ATTORNEY

CITY OF ALAMEDA RESOLUTION NO. _____

RESOLUTION OF INTENTION TO APPROVE AN AMENDMENT TO
CONTRACT BETWEEN THE BOARD OF ADMINISTRATION,
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE
CITY COUNCIL, CITY OF ALAMEDA

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 20516 (Employees Sharing Cost of Additional Benefits) applicable to Section 21362.2 (3% @ 50 Full formula) effective March 11, 2001, and Section 20042 (One-Year Final Compensation) effective December 31, 1990 for local police members and Section 21362.2 (3% @ 50 Full formula) effective May 5, 2002 and Section 20042 (One-Year Final Compensation) effective December 31, 1990 for local fire members. The maximum permanent employee cost sharing contributions are not to exceed 5.057%

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Alameda does hereby give notice of intention to approve an amendment to the contract between City of Alameda and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

* * * * *



EXHIBIT

California
Public Employees' Retirement System

AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Alameda

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective January 1, 1957, and witnessed December 20, 1956, and as amended effective February 1, 1961, April 1, 1964, May 1, 1965, October 1, 1973, January 1, 1983, July 1, 1990, December 31, 1990, March 21, 1991, July 4, 1991, September 3, 1992, October 15, 1992, March 11, 2001, May 5, 2002 and August 10, 2003 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 14 are hereby stricken from said contract as executed effective August 10, 2003, and hereby replaced by the following paragraphs numbered 1 through 15 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members and age 50 for local safety members.
 2. Public Agency shall participate in the Public Employees' Retirement System from and after January 1, 1957 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
 - (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.
 - (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.
 - (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.
 - (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
 - a. Local Fire Fighters (herein referred to as local safety members);
 - b. Local Police Officers (herein referred to as local safety members);

- c. Employees other than local safety members (herein referred to as local miscellaneous members).
- 5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
 - a. **ALL HOURLY RATED NON-CIVIL SERVICE EMPLOYEES HIRED ON OR AFTER MAY 1, 1965; AND**
 - b. **LOCAL HEALTH DEPARTMENT EMPLOYEES.**
- 6. Assets heretofore accumulated with respect to local miscellaneous members under the local retirement system who waived their rights under that system have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system have been credited to the individual membership account of each such employee under the Public Employees' Retirement System.
- 7. Assets heretofore accumulated with respect to local safety members under the local retirement system who waived their rights under that system have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system have been credited to the individual membership account of each such employee under the Public Employees' Retirement System.
- 8. This contract shall be a continuation of the contract of the Housing Authority of the City of Alameda, hereinafter referred to as "Former Agency". The accumulated contributions, assets and liability for prior and current service under the Former Agency's contract shall be merged pursuant to Section 20508 of the Government Code. Such merger occurred July 1, 2000.
 - a. Section 21354 (2% @ 55 Full formula) provided under this contract shall apply to all past service for former employees of the Housing Authority of the City of Alameda.
- 9. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1959, the effective date of Social Security coverage, and prior to December 31, 1982, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).

10. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
11. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 21573 (Third Level of 1959 Survivor Benefits).
 - b. Sections 21624 and 21626 (Post-Retirement Survivor Allowance).
 - c. Section 20042 (One-Year Final Compensation).
 - d. Section 20938 (Limit Prior Service to Members Employed on Contract Date) for local safety members only.
 - e. Section 20965 (Credit for Unused Sick Leave).
 - f. Section 21635 (Post-Retirement Survivor Allowance to Continue After Remarriage) for local safety members only.
 - g. Section 21536 (Local System Service Credit Included in Basic Death Benefit) for local safety members only.
 - h. Section 20903 (Two Years Additional Service Credit) for local miscellaneous members only.
 - i. Section 20516 (Employees Sharing Cost of Additional Benefits):

Section 21362.2 (3% @ 50 Full formula) and Section 20042 (One-Year Final Compensation) for local safety members. The maximum permanent employee cost sharing contributions are not to exceed 5.057%.
12. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
13. Public Agency shall also contribute to said Retirement System as follows:
 - a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21573 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local miscellaneous members and local safety members.

- b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
 - c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
14. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
15. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF ALAMEDA

BY _____
DARRYL WATSON, CHIEF
CUSTOMER ACCOUNT SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the ____ day of December, 2011, by the following vote to wit:

AYES

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the seal of said City this ____ day of December, 2011.

Lara Weisiger, City Clerk
City of Alameda